No. 10-887

In the Supreme Court of the United States

Joseph Dixon,

Petitioner,

vs

Eastcoast Music Mall,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITION FOR REHEARING

Joseph Dixon
314 Hennepin Avenue, Apt. 503
Minneapolis, Minnesota 55401
(612) 715-1972
e-mail: jd.0001@yahoo.com

Petitioner, pro se

No. 10-887

In The Supreme Court of the United States

Joseph Dixon,

Petitioner,

v.

Eastcoast Music Mall,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE MINNESOTA SUPREME COURT

PETITION FOR REHEARING

RULE 33.1(h) CERTIFICATE OF WORD COUNT

I, JOSEPH DIXON, hereby certify that the Petitioner for Rehearing, Docket no. 10-887, complies with Revised Rule 33.1 in that it contains the proper typeface in the proper size. I further certify that the document contains 2,757 words total, including the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 20, 2011.

Joseph Dixon

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

April 12, 2011

Joseph Dixon
314 Hennepin Avenue
Apt. 503
Minneapolis, MN 55401

RE: Dixon v. East Coast Music Mall
No: 10-887

Dear Mr. Dixon:

The petition for rehearing and $200.00 Money Order postmarked April 6, 2011 and received April 12, 2011 are herewith returned for the following reason(s):

The text of the petition must be typeset in a Century family (e.g., Century Expanded, New Century Schoolbook, or Century Schoolbook) 12-point type. Rule 33.1(b). The petition must be on paper that measures 6 1/8 X 9 1/4 inch paper. Rule 33.1(a). You must also submit a certificate stating that the petition complies with the [redacted] limitation. The certificate must state the number of words in the document and must be separate from the petition. Rule 33.1(h).

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,
William K. Suter, Clerk
By:

Jeffrey Atkins
(202) 479-3263

Enclosures

BEST AVAILABLE COPY

QUESTIONS PRESENTED

1. Does Const. Amend. I, VI, XIII, XIV guarantee pro se, supervisory rights of the Supreme Court of the United States to grant Petition for Rehearing and to vacate and correct the errors of the lower court and for redress of grievance? Specifically, Petitioner asks for an order (1) granting a rehearing, (2) setting the case for argument and (3) reporting Defendants' criminal acts to the appropriate law enforcement agencies pursuant to 18 U.S.C. §4 and 18 U.S.C. §3290 so that Defendants can be punished for their crimes against Petitioner.

2. Does Const. Amend. VI, XIII, XIV conflict with 18 U.S.C. Stat. 4 and 18 U.S.C. Stat. 3290? Rule Civ. P. 4, Rule Civ. P. 11, Rule Civ. P. 55?

3. Does the Supreme Court of the United States have the Jurisdictional authority power to issue and order the lower courts to cease differential treatment against a selected, targeted minority group as similarly existed in the Kent State University segregation of blacks?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

Plaintiff:

Joseph Dixon, Pro se,
314 Hennepin Avenue Apt. 503
Minneapolis, Minnesota 55401
E-mail: jd.0001@yahoo.com

Respondent:
Eastcoast Music Mall
15 Starr Rd.
Danbury, CT. 06810

JURISDICTION

The Jurisdiction of this court is invoked under 28 U.S.C. Stat. 1254(1) and 28 U.S.C. Stat. 1257(a)

TABLE OF CONTENTS

Questions Presented ii

List of Parties iii

Jurisdiction iii

Table of Contents iii

Table of Authorities iv

Argument 1

Certificate of Good Faith 9

TABLE OF AUTHORITIES

Cases Cited: Page

Ambler v.Whipple, 90 U.S. 278 (1875) 7

Ankenbrandt v. Richards, 504 U.S. 689, 112 S. Ct. 2206, 119 L. Ed. 2d 468 (1992) 8

Griffith v. Kentucky, 479 U.S. 314 (1987) 7

Howard v. Scott, 125 S.W. 1158 (MO 1909) 6

State v. Ball, 124 N.H. 226 (1983) 6

United States v. Johnson, 457 U.S. 537 (1982) 7

RULES AND STATUTES

18 U.S.C. § 1961 *et seq.*, Racketeer Influenced and Corrupt Organizations Act,..... ii, 1

28 U.S.C. Stat. 1254(1) ii

28 U.S.C. Stat. 1257(a) ii

Fed. R. Civ. P. 4(b)..... ii, 5

Fed. R. Civ. P. 11 ii

Fed. R. Civ. P. 55 ..... ii, 5

Fed. R. Civ. P. 60(b)(3) 6

Supreme Court Rule 44.1 7

OTHER

C. Wright and A. Miller, *Federal Practice & Procedure* 2861 (1995)..... 6

ARGUMENT

Petitioner, Joseph Dixon appearing pro se, respectfully petitions this court for a rehearing of the March 21, 2011 decision. Specifically, Petitioner asks for an order (1) granting a rehearing, (2) setting the case for argument and (3) reporting Defendant's criminal act to the appropriate law enforcement agencies pursuant to 18 U.S.C. Stat 4 and 18 U.S.C. Stat. 290 so that the Defendant can be punished for its crime against Petitioner, Joseph Dixon, (4) granting Petitioner, Joseph Dixon Judgment the amount demanded in the Summons, Complaint and pleading of $250,000.00 and the Court may grant Petitioner Joseph Dixon treble damages pursuant to RICO Fraud Statutes §18 U.S.C. Stat. 1961-1968

Congress enacted the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 ("RICO") in 1970 to eradicate organized crime in the United States. To that end, RICO imposes severe criminal penalties on any individual or entity that engages in "racketeering activity," which is broadly defined to include an extensive list of actionable predicate acts, including mail and wire fraud. RICO also provides a private right of action for treble damages in favor of any person "injured in his business or property by reason of" a RICO violation.

Petitioner, Joseph Dixon on or about May 19, 2008, purchased $9,810.00 in musical instruments for travel to Europe and the United Kingdom for music entertainment recording contract with music recording companies with Starchild1 Production Company U.K. and with U.K. Media and other recording companies in Europe. Eastcoast Music Mall

was informed at the time of purchase of the recording contract in the UK and the purpose and urgency of the purchase of musical instruments needed for performance. Respondent failed to make delivery of purchased goods, failed to refund money paid, and is currently in possession of both the money paid and the merchandised purchased.

Respondent, Eastcoast Music Mall had full and complete knowledge that the injuries would occur upon breach of the contract, at the time of the purchase of the musical instruments Petitioner Joseph Dixon has fully informed respondent of the purpose of the purchase of the instruments, time is the essence, needed for overseas recording contract in the United Kingdom, Europe and that Plaintiff relying on time delivery of the purchased equipments for travel and recording performances. Respondent, Eastcoast Music Mall guaranteed Petitioner that a timely deliver would be made of the purchased instruments. Respondent breached the contract and knew the injuries and loss of future income would occurr. In wonton acts and conduct, deliberate, and with total disregard for Petitioner's rights, with intent to cause serious injuries to Petitioner respondent breached the contract. Eastcoast Music Mall chose not to respond to summons and complaint, not to appear for court trial, and with deliberate and total disrespect for the Supreme Court of the United States, respondent refuses to respond to documents filed with the Supreme Court of the United States and served upon respondent, East Coast Music Mall.

The facts, exhibits, proof of documents, affidavits, sales receipt, and payment receipt of the purchased goods were provided to the courts. Respondent

Eastcoast Music Mall admitted to being in receipt of $9,810.00 payment in full from Joseph Dixon for purchased merchandise but not delivered to buyer. This breach of contract resulted in severe loss of income and out of pocket money spent by Petitioner, Joseph Dixon and loss of recording contract in the U.K. Plaintiff filed lawsuit, served upon respondent by a local county sheriff, personally. Respondent failed to file an answer to the complaint. Respondent failed to attend Court Trial. Respondent, in total disregard and with intent of fraud refused to respond to appeal filed in this United States Supreme Court and the lower courts and is a fugitive respondent evading prosecution, falsifying publication of being bankrupt, while respondent is still in business.

Damages in tort are generally awarded to place the claimant in the position he would have been had the tort not taken place. Damages in tort are quantified under 2 headings: general damages and special damages.

General damages compensate the claimant for the non-monetary aspects of the specific harm suffered. This is usually termed 'pain, suffering and loss of amenity'. Examples of this include physical or emotional pain and suffering, loss of companionship, loss of consortium, disfigurement, loss of reputation, loss or impairment of mental or physical capacity, loss of enjoyment of life, etc. This is not easily quantifiable, and depends on the individual circumstances of the claimant. Judges in the UK base the award on damages awarded in similar previous cases. For example, an accident in which the claimant has suffered the loss of both legs and for which the defendant was legally responsible, will

typically attract general damages (in 2006) in the region of $125,000 - $145,000. A list of this is contained in a reference book known as 'Kemp and Kemp'.

Cases of similar opportunity to music recording contract: LOS ANGELES TIMES – "The King of Pop may be gone but his music is still making history. Michael Jackson's estate has reportedly landed a $200 million recording contract with Sony Music Entertainment. If the projects live up to expectations, the contract's price could escalate to $250 million dollars. An official announcement on the contract is expected Tuesday"

A similar opportunity was given to Patrick Hernandez in the U.K. as was given to Joseph Dixon had Eastcoast not breached the contract for delivery of purchased musical instrument to Joseph Dixon, who lost millions of dollars in the recording contract. A big European disco hit called 'Born to be Alive', performed by Patrick Hernandez, grossed over 25 million dollars and made a Patrick Hernandez a major Disco Star. Article Source: http://Ezine Articles.com/ 714302

Statutory damages

Statutory damages are laid down in law. Mere violation of the law can entitle the victim to a statutory award. The possible remedies for misrepresentation for example are codified in the Misrepresentation Act 1967. Eastcoast made misrepresentation as to service of the summon and complaint, falsely stated it was bankrupt, and made misrepresentation that it would deliver the purchased musical equipments to Joseph Dixon on

time for Travel recording performance contract in Europe. Consumer fraud was committed by Eastcoast Music Mall, and condoned by lower courts which failed to enforce the laws of congress.

Punitive damages

Generally, punitive damages, which are also termed exemplary damages in the United Kingdom, are not awarded in order to compensate the plaintiff, but in order to reform or deter the defendant and similar persons from pursuing a course of action such as that which damaged the plaintiff. Punitive damages are awarded only in special cases where conduct was egregiously invidious, and are over and above the amount of compensatory damages. Great judicial restraint is expected to be exercised in their application. In the United States punitive damages awards are subject to the limitations imposed by the due process of law clauses of the Fifth and Fourteenth Amendments to the United States Constitution.

Petitioner, Joseph Dixon affirms that any person of normal intelligence would understand that respondent collected money from petitioner for goods not delivered and money paid for the goods not refund constitutes fraud, ill-gotten money to which respondent is not entitled to receive. That failure of performance constitutes a breach of contract. That the breach of contract resulted in injuries and income loss to Petitioner, Joseph Dixon. That failure to answer summons and complaint, and not attending its own court trial pursuant to Rule Civ. P. 4 and Rule 55. Plaintiff, Petitioner, Joseph Dixon is entitled to judgment for the amount demanded in the summons and complaint. That the failure of the lower

courts to grant Judgment to Petitioner for the amount demanded is a denial of due process and Equal Protection of Law pursuant to Const. Amend. I, VI, VII, VIII, IX, XIII, XIV. Petitioner, Joseph Dixon relies on the Constitution and Rules of Civil Procedures to be applied and enforced by the courts, to govern the court.

Taken in consideration with similar cases, the judgment, decree or order to be modified or set aside "[f]or misrepresentation or fraud (whether heretofore denominated intrinsic or extrinsic) by an adverse party," taken in part from Rule 60(b)(3) of the Federal Rules of Civil Procedure, eliminates the distinction between intrinsic and extrinsic fraud, a distinction that has been described as "shadowy, uncertain, and somewhat arbitrary." Howard v. Scott, 125 S.W. 1158, 1166 (Mo. 1909). See also C. Wright & A. Miller, Federal Practice & Procedure 2861 (1995) (distinction is "very troublesome and unsound").

In respondent's failure to plead or to defend, the courts cannot represent respondent. The court cannot defend the respondent; the court cannot be the lawyer for defendant, respondent. Petitioner, Joseph Dixon is entitled to judgment for the amount demanded in the summons and complaint under the law. Respondent cannot win the case when it failed to defend, failed to plead, and failed to attend court and not be represented in court. State v. Ball, 124 N.H. 226, 231-33 (1983). Because the defendant does not argue that the statute may be subject to arbitrary enforcement, we do not address it.

Here we have seen the lower court depart from the laws of congress creating its own laws making the

constitution of no effect. Vagueness of the laws and the constitution results in judges creating its own laws to replace the Constitution, the Supreme Laws of the Land. Petitioner calls upon the Supreme Court of the United States to interpret the laws and constitutions for correction of the lower courts. Minorities are not given due process of law in the Minnesota courts. Petitioner, Joseph Dixon cannot get a fair trial in the courts in his state. Petitioner is exposed to racial bias in the lower courts. See United States v. Johnson, 457 U.S. 537, 555, n. 16 (1982); cf. Griffith v. Kentucky, 479 U.S. 314, 323 (1987) ("[W]e fulfill our judicial responsibility by instructing the lower courts to apply the new rule retroactively to cases not yet final"). 516 U.S. at 167. This is still a good law, and a federal appeals court in Manhattan ruled that blacks have no rights that whites are bound to respect. This ruling followed dragnet arrests of blacks in Oneonta, NY, in 1992.

Although this Court almost never grants petitions for rehearing, this case meets the rare exception contemplated by Sup. Ct. R. 44.1 and articulated in *Ambler v. Whipple*, 90 U.S. 278, 282 (1875): *"If the omissions...on which the case was heard are material to the decision of the case, it presents a strong appeal for re-argument."*

As this Court did not provide a reason for its denial, Petitioner is left with the daunting task of figuring out the mind of the Court and the reason(s) for its denial. One of Petitioner's beliefs is based on his concern that this Court viewed the circumstances explained in Petitioner's writ of certiorari as domestic issues that should be handled by Defendant the State of Connecticut or of Minnesota. In the case

Ankenbrandt v. Richards, 504 U.S. 689, 112 S. Ct. 2206, 119 L. Ed. 2d 468 (1992), the Court held that Ankenbrandt's action was a tort action, and as such, did not provide a permissible reason for the federal court to invoke the domestic relations exception. While it is unusual for this Court to grant rehearing and grant plenary review, but it is far more common for this Court to grant rehearing and then grant certiorari, vacate the judgment below, and remand (a "GVR order") for consideration of an intervening decision of this Court.

REASON FOR GRANTING REHEARING

Petitioner is entitled to judgment by Law, practices of courts, similar cases, injuries sustained loss of out of pocket money and income that would have been made had the breached not occurred. The lower courts erred and abused its discretionary power. Granting of Petition to Petitioner, Joseph Dixon will deter and enforce the laws of congress and with prevent future errors of court. The Respondent should not be rewarded for its criminal and corrupt fraudulent acts and conducts but should be held strictly liable for its unlawful, fraudulent acts and conducts.

The errors of the courts should be corrected. Public interests are involved. There should be and will result in consistency of the courts. RICO acts warrants treble damages. Petitioner should be put in a possession he would have been had the fraud and breach of contract not occurred. Petitioner is entitled to punitive and compensatory damages.

CERTIFICATE OF GOOD FAITH

Petitioner certifies that the petition for rehearing is presented in good faith and fair dealing and not for any ulterior motive to cause delay, harassment, or to incur costs on any party or parties. That the presentation of this petition is accurately presented to the best of Petitioner's knowledge and belief verifiable and worthy of all acceptations, base upon the rules of courts, supporting cases and based upon documents provided and made available to Joseph Dixon, base upon research, base upon similar court cases and Rules and practices of this and other courts, and of the public's interests. Petitioner further certifies that the grounds are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

CONCLUSION

Petitioner, Joseph Dixon prays for Judgment in the amount demanded in the summons and complaint of $250,000.00 compensatory and punitive damages and reasonable attorney fees and court costs. Petitioner prays that the Supreme court of the United States grants treble damages to Petitioner Joseph Dixon pursuant to RICO Act Fraud statutes. Prayer that the lower courts Judgment be vacated. That the supreme court investigates the lower courts discriminatory practices against minority African-American blacks.

Prayer for Judgment. Let there be Judgment in favor of Joseph Dixon as demanded awarding monetary compensation and punitive damages accordingly.

Date: April 6, 2011.

Sgn. 

Joseph Dixon